IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1208 of 2013
Date of Decision: 28.03.2018

Raj Rani and others ....Appellants

Vs.

Subhash Gaur and others ....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Dheeraj Narula, Advocate, for the appellants.

Mr.M.B.Jain, Advocate, for the respondent/Insurance Co.

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RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 14.08.2012, passed by the learned Motor Accident Claims Tribunal, Sirsa (for short, 'the Tribunal') vide which compensation to the tune of Rs.5,84,400- was awarded to the claimants on account of death of Surender Kumar.

FACTS NOT IN DISPUTE

On 03.03.2011, deceased Surender Kumar husband of the claimant No.1 was coming from Anaj Mandi to his house and when he reached near Janta Bhawan Road, then a Bolero Jeep bearing registration No.HR-39A-5698 came from Arorvansh Chowk side which was being driven by the respondent No.1 in a rash and negligent manner and struck against his motor cycle from behind and dragged him alongwith his motorycle to a considerable distance which resulted into cause the aforesaid accident and the brother of Surender Kumar who was also coming on his own motorcycle to Civil Hospital, Sirsa where he succumbed to the accidental injuries. The matter was reported to the police upon which FIR No.146 dated 04.03.2011 for the offence under sections 279, 427 and 304-A IPC was registered against the drive of the offending vehicle-respondent No.1. Both the parties are not disputing the findings given by the learned

Tribunal on issue No.1 as abovesaid FIR has been registered against respondent No.1.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 45 years old and the claimants failed to produce on the record any documentary evidence regarding income of the deceased. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

Sr.No.	Heads of compensation	Amount
1	Salary per month	Rs.5000/-
2.	Deduction 1/3rd on personal expenses	Rs.5000 --- Rs.1700= Rs.3300/-
3.	Annual loss of dependency after applying multiplier	Rs.3300/- X 12 X 14= Rs.5,54,400/-
4.	Pain and suffering, consortium and love and affection	|Rs.20,000/-
5.	Funeral expenses and transportation	Rs.10,000/-
	Total	Rs.5,84,400/-

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced, in view of the judgment "**National Insurance Company Ltd. Vs. Pranay Sethi and others SLP(C) 25590 of 2014 decided on 31.10.2017**. On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal.

RE-ASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the record.

Learned counsel for the appellant has drawn the attention to the para No.19 of the impugned Award wherein it has been held that as per income tax returns Ex.PW3/A and Ex.PW3/B and Form No.16-A, it emerges that during the assessment years 2009-10 and 2010-11 the deceased had received a sum of Rs.64,000/- and Rs. Rs.51,000 as salary respectively. So far as the amount of commission of Rs.28,300/-, it has not been treated as income on the ground that it was not a regular income of the deceased. This Court of the view that since the commission has been reflected in the income tax returns in Ex.PW3/A and Ex.PW3/B and Form No.16-A, Rs.2000/- per month is now added in the income i.e. Rs.5000/- which has earlier been taken by the learned Tribunal. As such, the income of the deceased is taken as Rs.7000/- per month for reassessment of compensation.

It is not in dispute that the offending vehicle was fully insured with the Insurance company. In view of the above, and following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgment, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Salary per month	Rs.7,000/- per month
2.	Future prospect (25%)	Rs.7000/- + Rs.1750/-= Rs.8750/-
2.	Loss of dependency (1/3)	Rs.8750/- --- Rs.2917/-= Rs.5833/-
3.	Annual loss of dependency after applying the multiplier	Rs.5833/- X 12 X 14= Rs.9,79,944/-
4.	Conventional Heads	Rs.70,000/-
	Total	Rs.10,49,944/-
	Enhanced compensation	Rs.10,49,944/- --- Rs.5,84,400/-= Rs.4,65,544/-

Resultantly, the enhanced amount of compensation of Rs.4,65,544/- shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in a case of **Shri Nagar Mal and Ors Vs. The Oriental Insurance Company Ltd. And ors. in Civil Appeal No.448 of 2018**. Remaining conditions of disbursal of amount shall remain unaltered. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

(RITU BAHRI)
JUDGE

28.03.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No